

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:	:	Chapter 11
	:	
Circuit City Stores, Inc., <i>et al.</i>	:	Case No. 08-35653 (KRH)
	:	
Debtors.	:	

**DESOTO COUNTY, MISSISSIPPI'S OPPOSITION TO DEBTORS'
THIRTY-SEVENTH OMNIBUS OBJECTION TO CLAIMS
(REDUCTION OF CERTAIN PERSONAL PROPERTY TAX CLAIMS)**

DeSoto County, Mississippi ("DeSoto County"), by and through its undersigned counsel, respectfully submits this *Opposition to Debtor's Thirty-Seventh Omnibus Objection to Claims (Reduction of Certain Personal Property Tax Claims)* (the "Opposition"), and states as follows:

1. On or about June 30, 2009, DeSoto County filed its Request for Allowance and Payment of Administrative Expense (the "Claim"). The Claim was filed in the amount of \$38,355.77, and asserted administrative expense status based on 11 U.S.C. §503(b)(1)(B). On information and belief, the Debtor identifies this claim as claim number 13944.

2. The Claim, and the calculation of tax due, was based in part upon the DeSoto County, Mississippi Personal Property Rendition (the "Return"). A copy of the Return is attached hereto as **Exhibit A**.

3. On August 24, 2009, the Debtor filed *Debtors' Thirty-Seventh Omnibus Objection to Claims (Reduction of Certain Personal Property Tax Claims)* (the "Objection"), asserting that DeSoto's claim number 13944 should be reduced to \$18,562.34, based on alleged "overstated" personal property values. *See*, Objection, pg.6.

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Counsel for DeSoto County, Mississippi

4. As described in the Claim, the Claim is based upon 2009 personal property tax. In 2009, the Debtor owned personal property located in DeSoto County, Mississippi. On or about March 26, 2009, the Debtor filed its Return. Based on the Return, and applicable assessment rates, the Debtors' tax liability is \$38,355.77. Circuit City had the ability, under state law, to appeal the assessment to the County Board of Supervisors, but failed to do so.

5. Persons with personal knowledge of the relevant facts in support of this Response include:

Parker Pickle, Tax Assessor
365 Loshier Street, Suite 100
Hernando, MS 38632
Telephone: 662-429-1335

Joey Treadway, Tax Collector
365 Loshier Street, Suite 110
Hernando, MS 38632
Telephone: 662-429-1340

6. Documents in support of the Claim include the attachments to the Claim as filed, and the attached Exhibit A. DeSoto County reserves the right to supplement this documentation at a later date if additional supporting documentation is obtained.

7. The name, address, telephone number and fax of the party to whom Debtors should serve a reply to this Response, and who should be contacted to reconcile, settle or otherwise resolve the Objection, is DeSoto County's counsel as set forth herein.

8. Additionally, to the extent Debtors seek to amend its Return or dispute valuation of personal property as originally asserted in the Return, any such procedure should be done pursuant to state law of Mississippi and adjudicated in Mississippi. The Bankruptcy Court should abstain from determining values on the amount of local tax, since such issues are best left to state

jurisdiction. *See. In re Metromedia Fiber Network, Inc.*, 299 B.R. 251, 282 (Bankr. S.D.N.Y. 2003).

WHEREFORE, DeSoto County, Mississippi respectfully requests that the Objection be overruled, and that DeSoto County's claim be allowed in full as filed, and for other and further relief as is just and proper.

Dated: September 24, 2009

/s/ William A. Gray
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Counsel for DeSoto County, Mississippi

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2009, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Bankruptcy Court for the Eastern District of Virginia, Richmond Division, using the CM/ECF system, which thereby caused the above to be served electronically on all registered users of the ECF system that have filed notices of appearance in this matter, and was mailed, by U.S. Mail, first class, postage prepaid, to all persons below:

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Richmond, Virginia 23219
*Counsel for the Official Committee
Of Unsecured Creditors*

/s/ William A. Gray

EXHIBIT A

2009

PERSONAL PROPERTY RENDITION

Use this form for reporting: 1. All taxable personal property.
2. All changes in personal property.

Return not later
than April first.

De Soto County, Mississippi

Circuit City Stores, Inc.

Acct #: 03589PP

RETURN TO:

Desoto County Assessor

365 Loshier

Suite 100

Hernando, MS 38632-1626

If name or mailing address is incorrect, please correct below.

Name

Street

City

State

Zip

Section 1 - Miscellaneous

1. DBA and physical address of business:

Circuit City Stores Inc.

6680 Southern Parkway, Southaven, MS 38671

2. Name of owner. (If partnership, only one name is necessary.):

Circuit City Stores, Inc.

3. Inventory reported on previous year's MS income tax return:

4. Supporting books and records located at:

Scott Ash (804) 527-4000

5. Primary business activity:

Retail Sales of Consumer Electronics

Section 2 - Inventory

Check One ☒ Inventory as of January 1, or
☐ Average of previous 12 months from January 1.

1. Inventory (actual cost) \$ 1,260,756

2. Consigned / Floor Plan \$

3. Fuel Inventory \$

4. Industrial Inventory Only:

a. Raw materials \$

b. Work in progress \$

c. Finished Goods \$

5. Total \$ 1,260,756

SECTION 3 - FURNITURE AND EQUIPMENT

If you have acquired or removed any furniture or equipment during the previous year, please list in the space provided below.

Additions: (If additional space is needed, please attach additional sheets, as necessary.)

Description of Item	Year Purchased	Purchased New / Used (✓)	Year of Manufacture	Cost Installed
1. See Attached Additions Listing				537
2.				
3.				
4.				
5.				
6.				

Deletions: (If additional space is needed, please attach additional sheets, as necessary.)

Description of Item	Year Purchased	Year Manufactured	Cost New	Name & addresses of Purchaser
1. N/A			\$	
2.				
3.				
4.				
5.				

Form 73-033 MStC Rev. 01

4. Do you have in your possession, or is there located at your business, any machinery, equipment, furniture, fixtures, or vending machines leased, rented, loaned, or stored at the location, but not owned by you? YES ☐ NO ☒ If the answer is yes, please list in the space provided below (Exclude licensed motor vehicles).

Description of Item	Name and Address of Owner	Selling Price (if stated in lease)	Annual or Monthly Rent (specify)	Year of Manufacture	Year Installed
N/A		\$	\$		

5. Do you have any leasehold improvements at your business premises which have been arranged between you and other party(ies) either this year or in a previous year? YES ☒ NO ☐ If the answer is yes, please list in the space provided below. (Leasehold improvements include, but are not limited to, shelving, bins, counters, movable partitions, supplemental heating or air conditioning, draperies, or extraordinary lighting, electrical, or plumbing facilities).

Description of Improvement:	Year Installed	Cost
See Attached		\$ 52,155

Have you rebuilt or re-manufactured any equipment? Yes ☐ No ☒ If the answer is yes, please list in the space provided below.

Description (Make and Model):	Year of Rebuild	Cost
N/A		\$

Section 4 - (Leasing and Rental Companies Only)

Please check the appropriate category:
Property was manufactured...

- ☐ ...by you and you are the lessor.
☐ ...by another and you are the lessor.

Did you have machinery, equipment, furniture, or fixtures located in the county which were leased, rented, loaned, or stored, and were in the possession of another party as of January 1? YES ☐ NO ☒ If the answer is yes, please list in the space provided below.

Lessee's Name and Address	Quantity and Description	Current Selling Price (New, Retail)	Annual or Monthly Rent (Specify)	Term of Lease	Year Manufactured	Year Installed
N/A		\$	\$			

☒ Please notify me in writing if the appraised or true value of my personal property is increased by 10% or \$50,000.

Certification: I hereby certify under oath that the above entered information is true and correct to the best of my knowledge.
Verification under oath required by Miss. Code Ann. §27-35-23 (4)

Signature of Property Owner:

Signature of Preparer (if other than Property Owner):

Sarah Harris

Date: 3/26/09

Date: _____

Property Owner Information

The purpose of this form is to enable the owner of property to render pertinent information to the County Assessor as conveniently as possible. Any questions with regard to this rendition, or personal property assessments, should be addressed to the County Assessor.

This form must be completed in its entirety, certified, and submitted to the County Assessor. In the event of failure to do so, the County Assessor is required to assess the property using the best information available.

A listing of furniture, fixtures, machinery, and equipment owned and/or leased in said county, by location, description, original year new, and original cost new, is requested. (Please report inventory at cost.)

A listing of Leased equipment including lessor/lessee name, mailing address, description and location of equipment, original year new, and cost new is requested. Property not owned by the taxpayer, but in his/her charge, as lessee, parent, spouse, executor, administrator, guardian, trustee, or otherwise, is to be rendered by the person having that charge, and separate lists shall be returned for each party claimed as an owner of property.

In accordance with Mississippi Code 1972 Section 27-35-45, Annotated (1995), FAILURE TO LIST FOR ASSESSMENT, AS REQUIRED BY LAW, ANY PERSONAL PROPERTY WHICH IS TAXABLE UNDER THE LAWS OF MISSISSIPPI, OR FAILURE TO PROVIDE THE TAX ASSESSOR WITH ANY DOCUMENTATION THAT THE ASSESSOR CONSIDERS NECESSARY TO VERIFY THE LIST, THE CURRENT YEAR ASSESSMENT SHALL BE INCREASED BY TEN PERCENT (10%).

The tax lien date in Mississippi is January first to March first. Property is assessed to the person who owned it at that time. If ownership is unknown or uncertain, then property is assessed to the person who was in possession of, or in charge of, the property at that time.

Time for filing is determined by the County Tax Assessor. In no case, however, can it be later than the first of April. All owners of taxable personal property are required to file.

Personal Property is assessed in the county and district where it is located, with certain narrow exceptions. If one person owns personal property in more than one taxing district, separate lists are to be made for each district.

Determination of true value for purpose of assessment shall mean and include, but shall not be limited to, market value, cash value, actual cash value, proper value, and value for the purpose of appraisal for ad valorem taxation.

The County Assessor has the right to inspect any property, to propound questions, to examine books, records, and any documents relating to the ownership or value of property, the right to ascertain the amount of insurance carried, and must be provided, on request.

Objections to assessments are made to the Board of Supervisors at the August meeting each year. The Board of Supervisors equalizes assessments between and among properties on appeal, and may make adjustments to assessed value, accordingly.

03/26/2009
02:46:26PM

**Summary by State Class and Acquisition Year
Declaration of Property Owned and Used by Owner**

Page 1

Desoto County Assessor - MS: Memphis/Southaven

Assessment Date: 01/01/2009

Assessed - Inventory

State Class	Year	Reported Cost	Current Value	Rendered Value	Assessor's Use
Non-Industrial Inventory		1,260,756.00	1,260,756.00	189,113.00	
		1,260,756.00	1,260,756.00	189,113.00	
		1,260,756.00	1,260,756.00	189,113.00	
Total					

MS: Memphis/Southaven
Property Location: 6680 Southcrest Parkway
Southaven, MS 38671

Taxpayer's Address:
Circuit City Stores, Inc.

PTMS 4.0

Sukara

Section 3 Furniture and Equipment

Additions

Description of Item State Class Asset #	Owner Class	Year Purchased	Purchased		Year of Manufacture	Cost Installed	Rendered Value
			New	Used			
Location of Property: MS: Memphis/Southaven, 6680 Southerest Parkway, Southaven, MS 38671							
Streater Glass Cases Furniture and Equipment 128465MS	RE	2008	✓		2008	536.97	74.00
Total by 2008						536.97	74.00
Total by class Furniture and Equipment						536.97	74.00
Total by Location						536.97	74.00
TOTAL						536.97	74.00

**Summary by State Class and Acquisition Year
Declaration of Property Owned and Used by Owner**

Desoto County Assessor - MS: Memphis/Southaven

Assessment Date: 01/01/2009

Assessed - Personal Property

State Class	Year	Reported Cost	Current Value	Rendered Value	Assessor's Use
Computers	2008	686.69	605.19	91.00	
	2006	8,634.69	5,098.95	765.00	
	2005	60,410.67	25,882.96	3,882.00	
		69,732.05	31,587.10	4,738.00	
Furniture and Equipment	2008	536.97	494.99	74.00	
	2007	3,723.46	3,144.84	472.00	
	2006	12,878.20	9,606.12	1,440.00	
	2005	592,730.70	377,836.21	56,673.00	
		609,869.33	391,082.16	58,659.00	
Machinery, Tools, Equipment	2007	10,766.67	9,093.53	1,364.00	
	2005	33,254.45	21,198.04	3,180.00	
		44,021.12	30,291.57	4,544.00	
Signs	2005	52,155.48	46,872.13	7,031.00	
		52,155.48	46,872.13	7,031.00	
		775,777.98	499,832.96	74,972.00	
Total					

MS: Memphis/Southaven
Property Location: 6680 Southcrest Parkway
Southaven, MS 38671

Taxpayer's Address:
Circuit City Stores, Inc.

Item 5 - Leasehold Improvements

Description of Item		Year Installed	Cost Installed
Asset #	Owner Class Lease #		
EXTERIOR BLDG SIGN	ESFF		52,155.48
81998		TOTAL	52,155.48